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March 2, 2005

Mr. Eddie A. Reed, Jr.
Director – Contract Management
Industry Markets Support
SBC Telecommunications, Inc.
311 S. Akard, Room 940.01
Four SBC Plaza
Dallas, TX 75202

Dear Mr. Reed:

XO Illinois, Inc., ("XO") hereby provides Illinois Bell Telephone Company, d/b/a SBC Illinois (jointly referred to herein as "SBC") notice pursuant to Section 13-515(c) of the Public Utilities Act ("PUA") of its intent to file an action under Section 13-515 of the PUA, alleging violations of Section 15-514, unless SBC corrects the situation described below within 48 hours of receipt of this notice.

On Feb 18, 2005, XO made a formal request to establish amendments between SBC Illinois and XO. XO stated in its letter:

> [t]he rules adopted in the triennial Review remand Order constitute a change in law under the current interconnection agreement ("ICA") between XO and Illinois Bell telephone Company d/b/a SBC Illinois ("SBC"). Pursuant to Section 2.1 of the second Amendment Superceding Certain Intervening law, Compensation, Interconnection and Trunking Provisions of that ICA, formal written notice is required to begin the process of entering into negotiations to arrive at an amendment to implement into the ICA the FCC's determinations in the Triennial Review Remand Order.
>
> Accordingly, we herby provide this notice, and request that SBC begin good faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the Triennial Review Remand Order.
>
> …..

> Please initiate the internal processes within SBC that will facilitate this request, and respond to this letter as expeditiously as possible with written acknowledgment of your receipt so that we may begin the negotiations process.

On February 24, 2005, SBC responded by stating that it had posted accessible letters[1] on its web site reflecting SBC's view of its unbundling obligations and XO should execute them and send them to SBC. SBC furthers asserted that the matters of the accessible letters are a "part of a 13 state dispute process and therefore it would not be appropriate, nor is it necessary to initiate negotiations at this time." SBC also indicated that it "will begin billing the FCC's transition pricing modifications effective March 11, 2005" and "notwithstanding your ICA(s), orders received for elements that have been declassified through a finding of nonimpairment by the TRO Remand Order will not be accepted, beginning March 11, 2005."

As described below, SBC's accessible letters contain conditions that are unacceptable and unlawful. By demanding that XO agree to these conditions and by refusing to accept XO's proposal that the parties negotiate amendments to their interconnection agreement, SBC is negotiating in bad faith. SBC's unreasonable refusal to negotiate an amendment to the parties' interconnection agreement is a violation of the parties' interconnection agreement and is a violation of state and federal law including but not limited to, 47 USC 252(i), 47 C.F.R. § 51.809(a), Article IX of the Public Utilities Act and 220 ILCS 5/13-514 (1), (2), (4), (5), (6), (8) and (12). SBC's unreasonable refusal to negotiate also violates previous orders of the Illinois Commerce Commission (the "Commission").

SBC's accessible letters are unacceptable and unlawful for the following reasons:

1. The FCC's *Triennial Review Remand Order* ("*TRRO*") regarding new orders for UNEs ("new adds") is not self-effectuating as of March 11, 2005 as claimed by SBC. As with any change in law, the *TRRO* is a change that must be incorporated into interconnection agreements prior to being effectuated. The FCC clearly stated that the *TRRO* and the new Final Rules issued therewith would be incorporated into interconnection agreements via the section 252 process, which requires negotiation by the Parties and arbitration by the Authority of issues for which Parties are unable to resolve through negotiations.

2. SBC continues to have unbundling obligations under Section 13-801 of the Illinois Public Utilities Act and under Section 271 of the federal Act. The nature of those obligations must be subject to negotiation of an amendment to the parties' interconnection agreement.

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[1] CLECALL05-017, "Mass Market ULS/UNE-P/Order Rejection"; CLECALL05-019, "Unbundled High-Capacity Loops and Unbundled Dedicated Transport – Order Rejection."

3. SBC previously attempted to force similar amendment language on XO. The Illinois Commerce Commission's Order *In the Matter of Petition for Arbitration of XO Illinois, Inc. of an Amendment to an Interconnection Agreement with Illinois Bell Telephone Company Pursuant to Section 252(b) of the Communications Act of 1934 as Amended*, Docket N0. 04-0371 rejected an earlier version of SBC's amendment as it related to the TRO. SBC is now trying to force similar provisions upon XO. The Commission asserted that the parties' present change of law provision would adequately enable the parties to amend their agreements resulting from new FCC rules.

Section 13-514 of the Illinois Public Utilities Act describes prohibited actions of telecommunications carriers:

> A telecommunications carrier shall not knowingly impede the development of competition in any telecommunications service market. The following prohibited actions are considered per se impediments to the development of competition; however, the Commission is not limited in any manner to these enumerated impediments and may consider other actions which impede competition to be prohibited:

(1) unreasonably refusing or delaying interconnections or collocation or providing inferior connections to another telecommunications carrier;

(2) unreasonably impairing the speed, quality, or efficiency of services used by another telecommunications carrier;

* * *

(4) unreasonably delaying access in connecting another telecommunications carrier to the local exchange network whose product or service requires novel or specialized access requirements;

(5) unreasonably refusing or delaying access by any person to another telecommunications carrier;

(6) unreasonably acting or failing to act in a manner that has a substantial adverse effect on the ability of another telecommunications carrier to provide service to its customers;

* * *

(8) violating the terms of or unreasonably delaying implementation of an interconnection agreement entered into pursuant to Section 252 of the federal Telecommunications Act of 1996 in a manner that unreasonably delays, increases the cost, or impedes the availability of telecommunications services to consumers;

* * *

(11) violating the obligations of Section 13-801; and

(12) violating an order of the Commission regarding matters between telecommunications carriers.

In light of SBC's state law and federal law obligations, as well as the Illinois Commerce Commission's clear direction, XO demands that SBC agree within 48 hours that it will take the following actions: (1) cease its demand that XO agree to the accessible letters, (2) enter into good faith negotiations to amend the parties' interconnection agreement and (3) agree to continue to provide unbundled network elements and agree to take orders for new unbundled network elements under the parties' existing interconnection agreement under existing prices until an amendment becomes effective. SBC's failure to take these actions would be a violation of Section 13-514 of the Public Utilities Act. XO will seek its legal remedies afforded it under applicable state and federal law, including penalties, attorneys' fees and costs.

Very truly yours,

Thomas H. Rowland
Counsel for XO Illinois, Inc.